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**TRANSMITTAL
FORM**

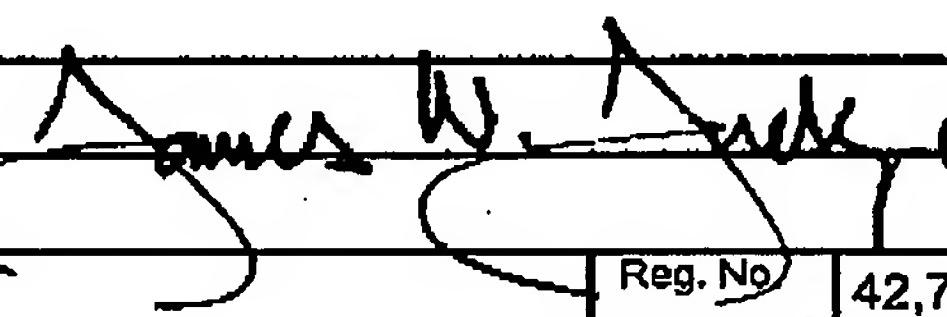
(to be used for all correspondence after initial filing)

		Application Number	10/708,618
		Filing Date	March 16, 2004
		First Named Inventor	Susumu Noda
		Art Unit	2883
		Examiner Name	Jerry M. Blevins
Total Number of Pages in This Submission	2	Attorney Docket Number	39.040

ENCLOSURES (Check all that apply)

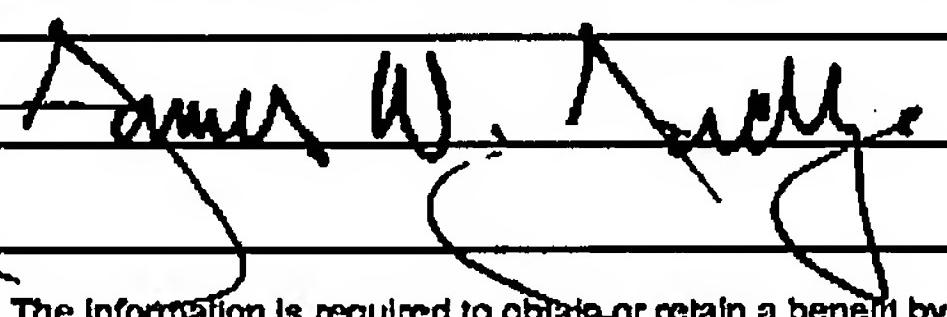
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
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<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input checked="" type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		
Remarks		
As explained to Examiner Blevins by telephone, this terminal disclaimer is a replacement to correct the owner % interest entry in the Aug. 12, 2005 disclaimer.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Judge Patent Firm		
Signature			
Printed name	James W. Judge		
Date	September 16, 2005	Reg. No.	42,701

CERTIFICATE OF TRANSMISSION/MAILING

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Signature			
Typed or printed name	James W. Judge	Date	September 16, 2005

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**TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING
REJECTION OVER A PENDING "REFERENCE" APPLICATION**

Duckel Number (Optional)
39,040

In re Application of: **Susumu Noda, et al.**

Application No.: 10/708,618

Filed: March 16, 2004

For: Two-Dimensional Photonic Crystal Cavity and Channel Add/Drop Filter

The owner, Sumitomo Electric Industries, Ltd., of 34 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 10/708,124, filed on February 9, 2004, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent granted on the pending reference application expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

- For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization:

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an attorney or agent of record. Reg. No. 42,701

A hand-drawn diagram consisting of a horizontal line with a wavy line below it. A vertical line connects the top of the wavy line to the top of the horizontal line. The word "DANCE" is written across the wavy line.

Signature

Sept 16, '05

James W. Judge
Typed or printed name

305-938-7119
Telephone Number

- Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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